

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

IN RE:

SANDRA HERRING
Debtor.

CASE NO.: 19-30181-KKS
CHAPTER 13

ORDER DENYING *DEBTOR'S MOTION TO EXTEND*
AUTOMATIC STAY(DOC. 18)

THIS MATTER is before the Court on *Debtor's Motion to Extend Automatic Stay* ("Motion"), filed pursuant to 11 U.S.C. § 362(c)(3)(B), to which the Chapter 13 Trustee filed a response.¹ Because the Motion was filed too late, it is due to be denied.

This is Debtor's second (2nd) bankruptcy filing in this district during the past one (1) year.² Debtor's first case was dismissed on December 28, 2018 ("First Case").³ Debtor then commenced this current Chapter 13 case by filing a voluntary petition on February 22, 2019.⁴

Because Debtor's First Case was pending and dismissed within a year of this case, and because Debtor did not file the Motion, notice it or have a hearing on it completed within thirty (30) days of filing her

¹ Docs. 18 and 20.

² *In re Herring*, Case No.: 18-30465-KKS (Bankr. N.D. Fla. 2018).

³ *Id.* at Doc. 48.

⁴ Doc. 1.

petition commencing this case, the automatic stay under 11 U.S.C. § 362(a) terminated before Debtor filed the Motion. Pursuant to 11 U.S.C. § 362(c):

(3) if a single or joint case is filed by or against a debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed . . .

(A) the stay . . . with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case;

(B) on the motion of a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors . . . after notice and a hearing completed before the expiration of the 30-day period . . .”⁵

The statutory language is mandatory.⁶

For the reason stated, it is

ORDERED that the *Debtor's Motion to Extend Automatic Stay* (Doc. 18) is DENIED.

DONE and ORDERED on May 2, 2019.



KAREN K. SPECIE
Chief U. S. Bankruptcy Judge

Debtor's attorney, Carrie Vaughn Cromey, is directed to serve a copy of this Order on interested parties and to file a Proof of Service within three (3) days of entry of this Order.

⁵ 11 U.S.C. § 362(c)(3).

⁶ *In re Martinez*, 515 B.R. 383 (Bankr. S.D. Fla. 2014).